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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/309,274	05/11/1999	ALEXANDER I. MCALLISTER	414.028	7294
32127	7590	10/22/2003	EXAMINER	
/ VERIZON CORPORATE SERVICES GROUP INC. C/O CHRISTIAN R. ANDERSON 600 HIDDEN RIDGE DRIVE MAILCODE HQEO3HO1 IRVING, TX 75038			PHAN, JOSEPH T	
ART UNIT	PAPER NUMBER		2645	12
DATE MAILED: 10/22/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/309,274	MCALLISTER, ALEXANDER I.
	<b>Examiner</b>	<b>Art Unit</b>
	Joseph T Phan	2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11 August 2003.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-62 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-62 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Response to Declaration 37 CFR 1.131***

1. Applicant's Declaration under 37 CFR 1.131 filed on August 11, 2003, paper #11 has been considered but is ineffective to overcome the prior art of record Beith et al., Patent #6,449,496 filed on February 8, 1999. The following statements are reasons for ineffectiveness:
  2. The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the Beith et al., reference. Inventor just states in the declaration paragraph #4., that "*....my invention was made and tested ...prior to February 8, 1999 is evidenced by the attached flowcharts(Exhibit A)...*" However, submitted Exhibit A is basically a flowchart figure which neither proves reduction to practice nor the conception or diligence of the claimed invention. Furthermore, there is no evidence that Exhibit A existed before 02/08/99.

Furthermore in declaration paragraph #4., applicant only states that the declaration "...incorporated the features of at least the subject matter described by independent claims 1, 29, 32, 36, 52, and 55...and further including independent claim 58..." It is noted that the dependent claims were not mentioned or declared to overcome the priority date of Beith. Each and every claim submitted including dependents must be proved to have been reduced to practiced prior to any reference used. In declaration paragraph #5., applicant merely states "All of the activities detailed above were

conducted and took place in the U.S..." From these statements and Exhibit A, applicant did not prove reduction to practice of the pending claims either by constructive (filing of US application) or actual reduction (shown and proven to be operational as claimed). Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere pleading, unsupported proof or a showing of facts" and thus, does not satisfy the requirements of 37 CFR 1.131(b). In re Borkowski, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at 33. See also In re Harry, 333 F.2d 920, 142 USPQ 164 (CCPA 1964) (Affidavit "asserts that facts exist but does not tell what they are or when they occurred.").

Therefore from the above, applicant's Declaration under 37 CFR 1.131 has been respectfully rejected and does not prove due diligence to overcome the prior art of record.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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**4. Claims 1-3, 5-8, 10-19, 21-22, 24-30, 32-34, 36-39, 40-49, 51-56, and 58-62**

**rejected under 35 U.S.C. 102(e) as being anticipated by Beith et al., Patent #6,449,496.**

Regarding claims 1 and 32, Beith teaches a method and means of providing voice responses to commands comprising:

means for receiving a spoken identifier (10 Fig.1, 124 Fig.2B);  
attempting recognition of said spoken identifier to identify a subscriber (124-300 Fig.2B to 310 Fig.7A);  
means for selecting a first processing option in response to said identifier (10 Fig.1, 320 Fig.7A and col.3 lines 6-25);  
means for providing a voice message indicative of said first processing option selected (10 Fig.1, 320 Fig.7A and col.10 lines 25-28);  
means for providing a silent delay period of a predetermined duration immediately subsequent to a completion of said step of providing a voice message (10 Fig.1, Fig.7A, and col.10 lines 28-29); and  
means for selectively (i) initiating alternate processing in connection with said identifier in response to a receipt of a command input(user says "no") during said silent delay period (326 and 372 Fig. 7A), and (ii) initiating said first processing option in connection with said identifier in response to an absence of said command input for a duration of said silent delay period (10 Fig.1, 324 Fig.7A, col.3 lines 6-25, and col.9 line 60-col.10 line 41).

Regarding claims 2, 3, 33, and 34 Beith teaches the method and means according to claims 1 and 32 wherein said duration of said silent delay period is in a range of 1.5 to 2.0 seconds (col.10 lines 25-29).

Regarding claim 5, Beith teaches the method according to claim 1 wherein said first and second commands comprises a speech input (col.9 lines 59-62).

Regarding claims 6 and 36, Beith teaches a method and means of telephone dialing using a voice activated dialer including:  
a memory storing a directory of subscriber names and telephone numbers (40 Fig.1 and col.6 lines 9-14),  
comparison means for selecting one of said subscribers most closely corresponding to a first speech input and providing a speech output corresponding to the selected one of said subscribers (10 Fig.1, Fig.7A and 7B, and col.9 line 60-col.10 line 41);  
timer means providing a silent delay period of a predetermined duration immediately subsequent to a completion of said step of providing a speech output (10 Fig.1, col.6 lines 9-14, and col.10 lines 28-29); and  
control means selectively (i) initiating alternate processing related to the selected one of the subscribers in response to a receipt of a command input identifying said alternate processing during said silent delay period (10 Fig.1 and 372 Fig.7A), and (ii) dialing the telephone number corresponding to the selected one of said subscribers immediately after said delay period and in response to an absence of said command input for a duration of said silent delay period (10 Fig.1, 324 Fig.7A, and col.3 lines 6-25).

Regarding claims 7, 8, 37, and 38 Beith teaches the method and means according to claims 6 and 36 wherein said duration of said silent delay period is in a range of 1.5 to 2.0 seconds (10 Fig.1 and col.10 lines 25-29).

Regarding claims 10 and 40, Beith teaches the method and means according to claims 6 and 36 wherein said command input comprises a DTMF audio signal (10,50 Fig.1, col. 10 lines 28-29 and col.12 lines 47-58; a 'user response' could also be in the form of a DTMF signal, i.e. DTMF signal input from a mobile phone keypad to enter telephone number).

Regarding claims 11 and 41, Beith teaches the method and means according to claims 6 and 36 wherein said command input comprises a second speech input and said method further comprises a step of listening for said second speech input (10 Fig.1 and col.10 lines 29-41).

Regarding claims 12, 13, 42, and 43 Beith teaches the method and means according to claims 11 and 41 wherein said second speech input comprises one of a plurality of predetermined spoken command(10 Fig.1 and col.10 lines 29-41).

Regarding claims 14 and 44, Beith teaches the method and means according to claim 11 and 41 wherein said step of listening includes recognizing said second speech input to provide speech content data and comparing said speech content data with a list of alternative processing commands (10 Fig.1 and col.10 lines 29-41; comparing said speech data with an alternative list is understood in Beith's system of recognizing the speech command input to provide related processing).

Regarding claims 15 and 45, Beith teaches the method and means according to claims 11 and 41 further comprising the steps of: receiving said first speech input (10 Fig.1 and col.9 lines 59-62); recognizing a content of said first speech input; and comparing said content with said directory (col.10 lines 1-28; *Beith recognizes the name input and provides options if it compares closely to other names in the directory*).

Regarding claims 16 and 46, Beith teaches the method and means according to claims 15 and 45 wherein said command input comprises a second speech signal and said method further comprises a step of listening for said second speech input (10 Fig.1 and col.10 lines 29-41).

Regarding claims 17 and 47, Beith teaches the method and means according to claims 16 and 46 wherein said step of listening includes the steps and means of receiving said second speech input and recognizing a content of said second speech input; and comparing said content with a list of alternative processing commands (10 Fig.1 and col.10 lines 29-41; *comparing said speech data with an alternative list is understood in Beith's system of recognizing the speech command input to provide related processing*). .

Regarding claims 18, 19, 48, and 49, Beith teaches the method and means according to claims 16 and 47 wherein said duration of said silent delay period is in a range of 1.5 to 2.0 seconds (10 Fig.1 and col.10 lines 28-29).

Regarding claims 21 and 51, Beith teaches the method and means according to claims 16 and 36 wherein said step of providing a speech output includes retrieving audio data corresponding to said selected one of said subscribers and converting said audio data into said speech output (*10 Fig. 1 and col. 10 lines 1-27; Beith's system retrieves audio data from memory and converts into speech output*).

Regarding claim 22, Beith teaches the method according to claim 21 wherein said step of converting said audio data into said speech output includes decoding said audio data (*20 Fig. 1 and col. 10 lines 1-27; decoding is necessary for conversion of audio to speech data*).

Regarding claim 24, Beith teaches the method according to claim 21 wherein said step of converting said audio data into said speech output includes a step of synthesizing speech from said audio data (*col. 10 lines 1-27; synthesizing is understood to be performed when extracting audio data into speech output*).

Regarding claims 25 and 26, Beith teaches the method according to claim 6 wherein said alternate processing includes providing a speech output corresponding to the telephone number of said selected one of said subscribers (*col. 10 lines 25-41, col. 13 lines 1-22); alternate names corresponds to an alternate telephone number of one subscriber*)

Regarding claims 27 and 28, Beith teaches the method according to claim 26 including dialing said alternate telephone number of said selected one of said subscribers and supplying a data signal corresponding to said selected one of said subscribers to a remote system, wherein said data signal represents said telephone

number of said selected one of said subscribers [col. 10 lines 25-28; *it is understood that a data signal corresponding to a subscriber's telephone number is supplied to a CO(remote system)*].

**Regarding claim 29, Beith** teaches a method of telephone dialing using a voice activated dialer including a directory of subscriber names and telephone numbers, the method comprising the steps of receiving a first speech input (col.9 lines 59-62); recognizing said first speech input to provide first speech content data, selecting one of said subscribers most closely corresponding to said first speech content data and providing a speech output corresponding to the selected one of said subscribers (310 Fig.7A and 7B, and col.9 line 60-col.10 line 41); providing a silent delay period of a predetermined duration within a range of 1.2 to 2.3 seconds immediately subsequent to a completion of said step of providing a speech output (col.10 lines 28-29); listening for a second speech input during said silent period(326 Fig.7A and col.10 lines 28-41); recognizing said second speech input to provide second speech content data(Fig.7A and 7B and col.10 lines 29-41); and selectively (i) initiating alternate processing related to the selected one of said subscribers in response to said second speech content data including an alternate processing command, and, otherwise, (ii) dialing the telephone number corresponding

to the selected one of said subscribers immediately after said delay period (324 Fig.7A, and col.3 lines 3-26, and col.9 line 60-col.10 line 41).

Regarding claim 30, Beith teaches the method according to claim 29 wherein  
said predetermined duration of said silent delay period is in a range of 1.5 to 2.0  
seconds (col.10 lines 28-29).

Regarding claim 52, Beith teaches a voice activated dialer comprising:  
a memory storing a directory of subscriber names and telephone numbers (40 Fig.1;  
col.6 lines 9-14),

a speech recognition engine receiving a speech input and providing content data  
derived from said speech input signal (10 Fig.1 and VR col.9 lines 59-65);

a processor responsive to said content data for selecting one of said subscribers  
and an audio output providing a speech signal corresponding to the selected one of said  
subscribers (10 Fig.1, col.6 lines 9-14 and col.10 lines 25-41); and

a timer providing a silent delay period of a predetermined duration immediately  
subsequent to a completion of providing said speech signal (10 Fig.1 and col.6 lines 9-  
14) wherein said processor selectively (i) initiates alternate processing in connection  
with the selected one of said subscribers in response to a receipt of a command input  
during said silent delay period, and (ii) initiates a dialing of the telephone number  
corresponding to the selected one of said subscribers immediately after said delay  
period and in response to an absence of said command input for a duration of said  
silent delay period (10 Fig.1, Fig. 7A, and col.10 lines 25-41).

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Regarding claims 53 and 54, Beith teaches the voice activated dialer according to claim 52 wherein said duration of said silent delay period is in a range of 1.5 to 2.0 seconds (10 Fig.1 and col.10 lines 28-29).

Regarding claim 55, Beith teaches a voice activated dialer comprising:  
a memory storing a directory of subscriber names and telephone numbers (40 Fig.1 and col.6 lines 9-14);  
a speech recognition engine responsive to a speech input for providing speech content data and a processor responsive to said speech content data and to a set of instructions for (i) selecting one of said subscribers most closely corresponding to first speech content data (10 Fig.1, Fig.7A, col.6 lines 9-14, and col.10 lines 1-5);  
(ii) providing a speech output corresponding to the selected one of said subscribers (320 Fig.7A, and col.10 lines 25-30);  
(iii) providing a silent delay period of a predetermined duration within a range of 1.2 to 2.3 seconds immediately after providing said speech output (col.10 lines 28-29);  
(iv) initiating alternate processing in connection with the selected one of said subscribers response to second speech content data including an alternate processing command, and, otherwise, (ii) dialing the telephone number corresponding to the selected one of said subscribers immediately after said delay period (path 326 to 110 of Fig.7A and 324 Fig.7A, col.3 lines 3-26 and col.10 lines 25-41).

Regarding claim 56, Beith teaches the voice activated dialer according to claim 55 wherein said predetermined duration of said silent delay period is in a range of 1.5 to 2.0 seconds (col. 10 lines 28-29).

Regarding claim 58, Beith teaches a method comprising the steps of performing speech recognition of a first speech input to select a designated subscriber(124,300 Fig. 2B to 320 Fig.7A); playing a voice message indicative of a first processing option in connection with said designated subscriber(320 Fig.7A); providing a silent delay period immediately subsequent to a completion of said playing step; and selectively identifying a second processing option specified by a second speech input and, in response, automatically initiating said second processing option in connection with said designated subscriber [*path from 326-100 Fig.7A; after user says 'no'(second speech input), VR initiates cancellation(second processing option)*], and automatically initiating said first processing option in connection with said subscriber in response to an absence of said second speech input during said silent period (324 Fig. 7A and col.3 lines 6-25); call originates if user is silent).

Regarding claim 59, Beith teaches the method according to claim 58 further comprising the steps of dialing a telephone number of said designated subscriber in response to said step of automatically initiating said first processing option; and performing said second processing in response to said step of automatically initiating said second processing option, said second processing selected from the group

consisting of (i) providing a listing of said designated subscriber, (ii) leaving a message for said designated subscriber, and (iii) accepting a voice mail for said selected subscriber (Fig.7A and col.3 lines 6-25; VR system provides list of designated subscribers).

Regarding claim 60, Beith teaches the method according to claim 58 further comprising a step of selectively (iii) identifying an exception command specified by said second speech input and, in response, performing error processing [*path from 326-100 Fig.7A and col.3 lines 6-25; after user says 'no'(second speech input), VR initiates cancellation to provide error correction*]).

Regarding claim 61, Beith teaches the method according to claim 60 wherein said error processing includes the steps of prompting for a third speech input; performing speech recognition of said third speech input to reselect a designated subscriber; playing a voice message indicative of said first processing option in connection with said reselected designated subscriber(Fig.7A and col.3 lines 6-25; providing a second silent delay period immediately subsequent to a completion of said playing step in connection with said reselected designated subscriber; and selectively (i) identifying a third processing option specified by a fourth speech input and, in response, automatically initiating said third processing option in connection with said reselected designated subscriber (ii) automatically initiating said first processing option in connection with said reselected designated subscriber is response to an absence of said fourth speech input during said second silent period (*Fig. 7A and 7B, and col.3 lines 6-25; VR system queries through several names until the correct name is*

*matched, then after a reselected subscriber is matched and the user is silent, automatic dialing occurs).*

Regarding claim 62, Beith teaches the method according to claim 61 further comprising the steps of dialing a telephone number of said reselected designated subscriber in response to said step of automatically initiating said first processing option; and performing said third processing in response to said step of automatically initiating said third processing option, said third processing selected from the group consisting of (i) providing a listing of said reselected designated subscriber, (ii) leaving a message for said reselected designated subscriber, and (iii) accepting a voice mail for said reselected selected subscriber (*Fig. 7A and 7B and col.3 lines 6-25; VR system loops through several names until the correct name is matched, then after a reselected subscriber is matched and the user is silent, automatic dialing occurs)..*

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 4, 9, 20, 23, 31, 35, 39, 50, and 57 rejected under 35 U.S.C. 103(a) as being unpatentable over Beith et al., Patent #6,449,496.**

Regarding claims 4, 9, 20, 31, 35, 39, 50, and 57, Beith discloses the method and means according to claims 1, 6, 29, 32, 36, 52, and 55 wherein said duration of

said silent delay period is in a range of 1.5 seconds (col.10 lines 28-29).

Beith is silent on the delay period being exactly 1.8 seconds but suggests could be around 1.5 seconds (col.6 lines 63-67).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to establish 1.8 seconds as the delay period. A waiting period of 1.8 seconds is around 1.5 seconds as suggested by Beith and could easily be implemented as the default waiting period in Beith's system. The difference of 0.3 seconds is not critical in operating a system like Beith's as noted by having a delay period up to 2 seconds (1204 Fig.17).

Regarding claim 23, Beith teaches the method according to claim 21.

Beith is silent on his method of converting said audio data into said speech output including concatenating a plurality of phonemes (col.10 lines 1-27)

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use concatenation of a plurality of phonemes to convert audio to speech data. One of ordinary skill in the art would have been motivated to do this as combining a plurality of phonemes to arrive at the closest word is old and well-known in the art. For example the unit of b's in Bob or the 't' and 's' in Thomas.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T Phan whose telephone number is 703-305-

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3206. The examiner can normally be reached on M-TH 8:30-6:30, in every other

Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

JTP  
October 20, 2003

FAN TSANG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

